

# MINUTES

## RANDOLPH COUNTY PLANNING BOARD

**December 7, 2004**

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, December 7, 2004, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Chairman Maxton McDowell** called to order the Randolph County Planning Board meeting at 6:30 p.m.
2. **Hal Johnson**, Planning Director, called roll of the members: Maxton McDowell, Chairman, present; Bill Dorsett, Vice Chairman, present; Lynden Craven, present; Larry Brown, present; Phil Ridge, present; Chris McLeod, present; and Jim Rains, present. County Attorney Alan Pugh was present for this meeting.
3. **Dorsett** made the motion, seconded by **Craven**, to **approve** the Minutes of the November 9, 2004 County Planning Board Meeting. The motion passed unanimously.
4. **SPECIAL USE PERMIT REQUESTS:**

***Swearing in of the Witnesses** - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."*

Three citizens took this oath.

**ALLEN BULLARD**, Randleman, North Carolina, is requesting a Special Use Permit to allow a rural planned development (one existing house, one existing mobile home for a family member, and one proposed mobile home for a family member) on 10.67 acres located at 2201 New Salem Road, Providence Township, Polecat Creek Watershed, Zoning District RA, Tax ID# 7776963828.

- **Technical Review Committee Recommendation**

***The Technical Review Committee met and found that this proposal was consistent with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommends to the County Planning Board that this request be approved.***

**Allen Bullard** was present with his wife and daughter. Bullard said that they are requesting a double-wide mobile home for their daughter. Bullard said they also wanted to place another mobile home on the property for his sister. Bullard said he would rent the existing mobile home on the property that was originally used as a residence for farm help. Bullard said this property would not be subdivided. Bullard said his sister has been living in the existing mobile home for the past 3 years.

**Johnson** said one concern of his is that the existing mobile home was originally permitted for farm workers and Bullard wants to rent that home now.

**Dorsett** said if this request is approved and the existing home is not needed for a farm worker's residence, the existing home should be removed. Bullard said he could allow his sister to place her new home on the existing septic tank and remove the old existing mobile home, if the Board is concerned about the forth residence. Bullard said these residences are needed for him and his wife to care for their family members. Bullard said if the existing mobile home needs to be junked to approve the additional home, he would do so.

**McLeod** said he didn't see where it would be that big a deal to leave the existing mobile home on the property. McLeod pointed out that the home is located far off the road.

**Ridge** asked Bullard if he had the property perked. **Bullard** said that he hasn't because he didn't think the Health Department would check the property before he received this permit. Bullard said he has developed 16 subdivisions, and with his experience he felt sure the property would perk.

**Thad Harris**, 4606 Plantation Manor Drive, said that he owns the property to the right and the rear of this site. Harris said he didn't realize Bullard was asking for two additional mobile homes. Harris said he is a general contractor, and allowing all these mobile homes on this property would devalue his property. Harris said the trailers are starting to multiply like rabbits. Harris said at another Planning Board meeting Bullard stated he was opposed to more trailers in this area. Harris said trailers only depreciate and depreciate the value of adjoining properties. Harris said he didn't realize that Bullard could change his request at this hearing. Harris said if the Board issued this permit it would be setting a negative precedent for this area. Harris said Bullard doesn't have the right-of-way to access this drive he is proposing to use for these two additional home sites.

**Bullard** said the easement was surveyed and recorded. Bullard said the surveyor, Jerry King, is present at this meeting. Bullard said when he sold Harris his property, Harris was told that the easement existed. Bullard said if using the easement was a problem, he could use his drive on his property.

**Harris** said he thought the County had ordinances to protect his property and he didn't know this could happen. Harris said he felt the Board should require a stick built home.

**Jerry King was sworn in for testimony.** King said he did the survey and the easement was on the map. King said he didn't know if the easement was stated on the deed.

**Alan Pugh** clarified that the survey work was performed by King for an easement but King doesn't know if the easement was recorded by deed.

**Rhonda Bullock**, 2277 New Salem Road, said that she lives adjoining this site. Bullock said that Bullard deeded off a tract to one sister at the rear of her home. Bullock said that there are two mobile homes on that tract at this time. Bullock said if this request is approved there will be two mobile homes on the other side of her home. Bullock said she owns 9+ acres with her residence. Bullock said she has been told by a realtor that this would depreciate her property values. Bullock said when she moved to the area she thought there wouldn't be mobile homes added to this area. Bullock said she would not be opposed to a stick built home.

**Angela Henderson**, Bullard's daughter, said that Bullock's house was her home growing up, and the next home was her dream home, which she was unable to pay for. Henderson said they had bad luck with business deals and they have lost almost everything. Henderson said she use to be opposed to trailers, but now she realizes that some people can't have any better residence. Henderson said she wants to move on to her family land. Henderson said all this land used to be her family's land. Henderson said she felt people's lives were more important than money.

**Dorsett** said that just because the Board denies a request for mobile homes doesn't mean that the Board looks down on the people who live in them. Dorsett said he felt if the Board approved the two new homes, Bullard should be required to move the old mobile home. Dorsett said he is not against the request if the old mobile home is removed.

**McDowell** said the Board is required to see that the requestor meets all the four tests required to issue a special use permit. **Pugh** said the standard is that there needs to be some evidence that the four criteria is on record or under oath and that the preponderance of that must be greater than the evidence given in opposition to the request. Pugh said the Board has evidence in opposition to consider. Pugh said the initial burden of proof that the criteria have been met is put on the applicant. Pugh said if evidence is received that overcomes this evidence, the Board can make a finding that the permit not be issued. **Dorsett** said that he felt that four mobile homes may deviate from the area. Dorsett said he used his experience of what is best for the county when making these decisions. **Pugh** said the Board could use their common sense and experience when making decisions on this type of request.

**Brown** made the motion to approve the request for one additional mobile home. **Ridge** seconded this motion with the amendment that the drive for the new home be on the existing driveway on the property and not use the easement as proposed. **Brown** accepted this amendment to his motion.

**Craven** said the Board has approved this type of request with the condition that if the mobile home is no longer needed for a family member, the home must be removed. Craven said when or if Bullard's sister no longer needs the mobile home site for her residence the home must be removed. **Brown** said his motion is to approve one additional mobile home site. **Rains** said he didn't feel the community has had the chance to respond to the new request. **Brown** said if the Board is considering the request that the community was notified of. **Rains** said he just wanted that clarified. ***Pugh** said that the motion has now conformed to the original request with the amendment that the access be used that exists on the property and not the easement and that the special use permit only be valid if the mobile home is used by a family member.*

**Ridge** said that he felt the if the easement was allowed to be used it may lend itself to be rented.

**Pugh** clarified the motion again. **Brown** confirmed the motion.

The motion passed unanimously to approve this request for a Special Use Permit.

5. **REQUEST FOR PROPERTY REZONING:**

*McDowell recused himself from the McDowell Lumber Company Request and turned the meeting over to Bill Dorsett, Vice Chairman.*

- A. **MCDOWELL LUMBER COMPANY**, Asheboro, North Carolina, is requesting that 30 acres (out of 120.30 acres) located at 2473 Falling Oak Road, Concord Township, be rezoned from Light Industrial and Residential Agricultural to Heavy Industrial/Conditional Use. Tax ID# 7619762602. The Conditional Use Zoning District would specifically allow a sawmill operation for lumber and pallets as per site plan.

- **Technical Review Committee Recommendation**

*The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the new Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommends that this request be approved with the following conditions established by the*

***Planning Board:***

- 1. Adequate buffers;***
- 2. Restrictions to prevent groundwater contamination;***
- 3. Hours of operation with intent to reduce noise in this rural area;***
- 4. Maintain all raw lumber storage to the rear of the property; and***
- 5. Require provisions be made to reduce dust pollution.***

***Example of a Growth Management Policy that the Technical Review Committee found supporting this recommendation is:***

***Policy 3.3 Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.***

**Johnson** gave the Board a background summary of the request, and stated that in 1987 the County contracted with the Piedmont Triad Council of Governments (PTCOG) to begin mapping those townships bordering Guilford County for possible zoning districting. Within a few months, the County Commissioners requested that the Council of Governments expand their mapping to include all of Randolph County. There was a deadline for completion of this countywide zoning study, and the PTCOG was not able to visit all sites and roads in the County to establish the zoning district boundaries. To accomplish this, the PTCOG used existing county mapping that dated around 1982. **Johnson** said a portion of the existing McDowell Lumber Company had been zoned in error by the PTCOG as Light Industrial, and that the entire area of the lumber yard had not been accurately reflected on the zoning maps adopted in 1987. **Johnson** said the property owner was now asking the County to properly zone the property, which would include a small area to the rear of that portion of the property currently used by the lumber yard.

***Pugh*** wanted to make clear the fact that the Chairman, Maxton McDowell, was excused from the Board for this case.

**Tony McDowell**, owner of McDowell Lumber Company, 2577 Falling Oak Road, said he started this business in 1974 and moved to this property in 1977. **Tony** showed the Board a 1977 aerial photograph of the property. **Tony** said the shop at the southern end of the parcel was built in 1974. **Tony** said the only portion of the property that was not being used for the lumber company prior to 1987 was a small section at the southwest corner of this property. **Tony** said this business was not zoned like it was supposed to be in 1987. **Tony** said that he didn't realize until sometime in 2000 that his business was incorrectly zoned by the County in 1987. **Tony** said that he talked to **Johnson** about this problem at

that time. **Tony** said he has 55 employees in this business. **Johnson** asked Tony if the zoning was approved, would there be any changes in the intensity of the current operation. **Tony** answered no. **Tony** said they have been upgrading their mill over the years and he has hired a surveyor to determine his boundary lines. **Tony** said that the only complaint that he has received was from an adjoining property owner when it was determined that the neighbor's drive was on his property. **Tony** said the neighbor told him about a dust problem and he has tried to solve this problem. **Tony** said his neighbor has just informed him that this problem has not been solved. **Tony** said that the neighbors haven't complained to him, and if they would just talk to him he would work out any problems. **Tony** said there are some discrepancies with their property lines. **Tony** said he has paid the surveyor to try to straighten these problems out. **Tony** said the property line problems are not the Board's problem, but he is asking the Board to straighten out the mistake made with the zoning maps by the County in 1987. **Tony** said they should have been "grandfathered in." **Tony** said he has paid to have buffers planted and made changes in his operation to try to settle the dust problems. **Tony** said he thought the problem was fixed and he didn't realize the problem was still there.

**Brown** asked who maintains the road, and **Tony** answered it is a state maintained road. **Brown** asked about the truck traffic. **Tony** said there are probably 60 trucks coming into the business each day. **Brown** said the buffers have improved the look of the property.

**Tony** said this business employees 55 people, and there are probably 100 contracted workers that bring their logs to the mill.

**Dorsett** asked how much buffer is being maintained around the perimeter of the property. **Tony** said he is maintaining a 5-ft. setback. **Dorsett** asked if he felt this was appropriate, and **Tony** said there are only stacks of lumber this close to the property lines, not buildings. **Brown** asked about the lumber on the road right-of-way; **Tony** said the right-of-way is only 50 ft., and there is not that much lumber in the right-of-way. **Brown** questioned how the County missed this business in the original zoning process in 1987, and **Tony** said it was his understanding that the property was zoned by a 1982 aerial photo. **Brown** questioned how additional buildings were permitted on the property after that time, and **Tony** told Brown he would need to ask the County because he did obtain the building permits for the construction. **Brown** questioned the noise from the business. **Tony** said he moved the planer from the first building on the east side of Falling Oak Road to the first building on the west side of Falling Oak Road.

**Maxton McDowell**, 5354 Old Hwy 49, said that he speaks to the Board as a

citizen of Randolph County and not a Board member. **Maxton** said that this is a heavy industrial type of business and creates noise pollution, air pollution, soil pollution, water pollution, traffic problems, light pollution, and safety issues in their community. **Maxton** said the business exploits the community around it. **Maxton** said within the Growth Management Plan that this Board and the Commissioners approved there are many reasons why this request cannot be approved. **Maxton** reviewed the objectives of the plan that this Board approved. **Maxton** said this business is in direct conflict with the County's Growth Management Plan. **Maxton** described a rural growth area as a farming community with large tracts of land. **Maxton** reviewed the characteristics of a rural growth area and asked the Board to recognize that there is nothing about industrial businesses within rural growth areas. **Maxton** reviewed the policy guidelines that in his opinion support denying this request. **Maxton** read all of the following policies to the Board.

***Policy 1.2** The benefits of economic development should be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents.*

***Policy 2.3** The County should promote linkage between storm water management, clean drinking water, flood control, pollution control and erosion.*

***Policy 2.8** The County should ensure that spill containment and hazardous materials response programs are up-to-date, adequate, and appropriately funded.*

***Policy 2.11** The County should continue to encourage and promote "clean" industry within Randolph County.*

***Policy 3.1** Industrial development should not be located in areas that would diminish the desirability of existing and planned residential uses, nor should major subdivisions be allowed to encroach upon existing or planned industrial sites without appropriate buffers.*

***Policy 3.2** Industrial development should be on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land should be encouraged.*

***Policy 3.3** Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.*

***Policy 6.16** The County should preserve scenic views and elements of the county's rural character by minimizing perceived density by minimizing views of new development from existing roads through use of natural buffers and open*

space.

**Policy 6.18** *The County should minimize site disturbance and erosion through retention of existing vegetation and avoiding development of steep slopes.*

**Policy 7.2** *Industries producing excessive noise, odor, air and water pollution, or other harmful impacts shall be discouraged, unless such adverse impacts can be clearly overcome through effective mitigation.*

**Policy 7.3** *The location of hazardous waste storage and disposal facilities within the Randolph County Planning Area shall not be supported.*

**Policy 7.4** *Protection of public water supply watersheds and the water quality critical areas shall be considered in rezoning and development proposals. Industrial and heavy commercial development shall not be promoted with the water critical areas of Randolph County.*

**Maxton** advised there were more Growth Management Policies that must be considered by this Board. **Maxton** said what we look for tonight is for the highest and best use and that is what we want for Randolph County. **Maxton** said he thought we would all agree that HI zoning is not the highest and best use anywhere in Randolph County. **Maxton** said that as far as the area being used and taken advantage of there has been some dispute of property lines. **Maxton** said he personally has a property line dispute on the west side. **Maxton** said somehow he lost 10 ft. to Tony all the way down his property line. **Maxton** said that there is a dispute as we speak and Maxton has not agreed to any property line with Tony. **Maxton** said he saw his trees removed and more “buffered lumber storage” added on his property. **Maxton** said when he questioned his neighbor he was told to talk to the surveyor. **Maxton** said the surveyor, Jerry King, said that the line was within 2 or 3 feet of the marked line. **Maxton** presented pictures of trees that have been cut to the marked (by Tony McDowell’s surveyor) line and there is no buffer on the property in question. **Maxton** said there is a property line dispute and it will probably be a court case. **Maxton** said that Tony started his business here with a portable sawmill in 1977. **Maxton** said he built his home in 1977 and could attest to the fact that the portable sawmill was here in 1977. **Maxton** said there is no clear basis for the business to operate under because the only part of the property that was being used for the lumber company prior to 1987 was on the east side of Falling Oak Road. **Maxton** asked how Tony got building permits to build any of the buildings that have been constructed on the property since zoning was established in 1987. **Maxton** said buildings have been built on this property and it was not zoned for this expansion. **Maxton** said in 1988 his property was appraised by Harold Brubaker and he was told that the sawmill business devalued his property by \$15,000 at that time. **Maxton** showed the Board were his property

is located to the west and north of this business. **Maxton** said that McDowell Lumber Company is a burden to this community every day. **Maxton** said as many as three trucks are parked on the state maintained road (Falling Oak Road) being loaded by forklifts off the side. **Maxton** told the Board that this is a safety issue. **Maxton** said this state-maintained highway is regularly blocked by parked trucks. **Maxton** said he thought Tony's plan showed that he is trying to rezone the state highway as well as his property. **Maxton** presented pictures of lumber stacked on the state highway right-of-way. **Maxton** said if this is not a safety issue, he didn't know what would be considered a safety issue. **Maxton** said this business exploits the land, the neighbors, and the community. **Maxton** said Tony has property line disputes with both of the neighboring property owners. **Maxton** said the County's maps showed the greatest concentration of the business is located next to the existing residences in the community. **Maxton** said that Tony wants 30 acres out of 190 acres that he owns to be zoned for this business next to the adjoining residences. **Maxton** said that just proves the kind of neighbor Tony is. **Maxton** said there has got to be hazardous waste leaching into the soils. **Maxton** said this site drains onto his property and into the Uwharrie River. **Maxton** presented a picture of a ditch that runs across his property into Uwharrie River. **Maxton** said this river is a Class-II graded drinking water supply. **Maxton** said he has seen oil slicks on the creek here and he has had trees that died on his property due to this run-off. **Maxton** said there have been straight lines of mature trees dying. **Maxton** said a lot of the property has been paved, which helped with the dust problem, but it created impervious surface and additional run-off. **Maxton** said the reason the property was not zoned HI in 1987 was because it was just a sawmill at that time. **Maxton** said the planer was moved, but the planer is in an open building and can be heard plainer than ever. **Maxton** said the sawmill is a hum, but the planer is an aggravating noise. **Maxton** said now Tony has a pallet business. **Maxton** showed the Board an article from The Courier-Tribune discussing this additional operation. **Maxton** said Tony didn't consult with the neighbors as to whether this additional business operation would be okay. **Maxton** said Tony stacked lumber in areas that were not zoned. **Maxton** said that he has consulted with Randle Brim, Planning Department, time and time again and after 9 months the department finally looked into the complaint. **Maxton** added that he received a copy of the notice sent to the property owner. **Maxton** discussed areas continuing to be used inappropriately with lumber storage and parking. **Maxton** said he discussed these problems with Randle Brim and Randle agreed but the property is still in violation of the zoning regulations. **Maxton** presented pictures of vehicles being parked in areas not zoned for the business. **Maxton** said he felt the zoning was being picked on and a stretch of uses as being allowed. **Maxton** discussed the County's pictures and the disgusting view from his front lawn. **Maxton** said the pictures show holes that have been dug on Maxton's own land so that he can plant his own buffer because Tony has not provided one. **Maxton** discussed the planted buffers and

said that they are nice. **Maxton** said this is like the question of what is 100 attorneys at the bottom of the ocean, and the answer is a “good start.” **Maxton** said this buffer is a good start. **Maxton** said he found the request concerning because if a zoning issue came up in the year 2000, a good corporate neighbor would have had it zoned in 2000, not in 2004. **Maxton** said there are contentions among property lines. **Maxton** said based on the County’s Growth Management Plan this Board has no choice but to recommend to the County Commissioners that this request be denied because it is not proper and has no place in this community. **Maxton** said at one time this was a nice farm, but it is not anymore. **Maxton** said the lumber company is a major operation, and we have safety issues and pollution issues here. **Maxton** said we have every issue that we would not want in a zoning case. **Maxton** said if the Board will take the time to look, they will realize that the business has gone from a sawmill to a sawmill and pallet operation. **Maxton** said the Board really doesn’t have any choice but to deny this request. **Maxton** said he realized that this would put Board members in a bind from a political standpoint. **Maxton** said it will affect may employees and contractors. **Maxton** said that Tony has some real problems. **Maxton** said by all rights the Board should deny the request, but if the Board decides that they don’t want to put Tony out of business, the Board should consider this list of minimum standards:

1. minimum of 35' buffer with a Level 3 buffering requirement around the entire property
2. minimum 6' chain linked fence inside that buffer to prevent the buffer from being destroyed or used for storage or parking
3. 25' natural buffer along both sides of the highway (not allow forklifts on the state road or storage on the highway)
4. minimum 6' chain linked fence along each side of the highway
5. buildings enclosed to provide noise level buffer no more than 60 decibels outside of the buildings
6. storage facility enclosed and contained to reduce dust
7. lighting rearranged so that it does not disturb the neighbors
8. new buildings no closer than 30' from buffer zones
9. soil and water contamination monitored with quality wells drilled to monitor contamination

10. zone order no new buildings north of existing buildings on the property
11. no outside storage or stacking north of the coaxal cable (McDowell described the cable owned by AT&T which crosses the property from southwest to northeast, which connects communication from Florida to Washington DC)
12. hours of operation should be limited and not allowed 24 hours a day

Zoning lines have been pushed over to accommodate parking. **Maxton** said parking only should be allowed on the north side of the property and not inventory storage. **Maxton** said the entire operation needs to be moved further south on the property and away from the existing residences. **Maxton** said all the existing houses adjoining this property were built before this business was established. **Maxton** said the Board really doesn't have much of a decision because the request should be denied. **Maxton** said if the Board must consider allowing the operation to remain, the Board must consider the very minimum conditions that have been proposed by the neighbors. **Maxton** said the hours of operation must be dealt with to limit the truck traffic. **Maxton** said that Tony used to live here but he moved ½ mile away from the operation so the business would not bother his residence.

**Brown** asked Maxton about the operation after dark. **Maxton** said that there is noise regularly from the business at night and it can be heard inside his residence. **Brown** asked Maxton about the dirt that was moved on the property and **Maxton** discussed an entire area on the north side of the property that has been pulled down behind the existing building to build a base for another building. **Maxton** said that the trees have been substantially thinned on the property. **Brown** asked about the dust problem. **Maxton** said that he doesn't get much sawdust problems but most of the dust problems would be to other neighbors. **Brown** asked Maxton if he could come to the McDowell Reunion. **Maxton** asked which one he was referring to. **Maxton** said the property line issue will have to be resolved. **Maxton** said he will have to give the 10 ft. back or something else will be done.

**Rains** asked what their relation is, and **Maxton** said they are third cousins.

**Barbara Winslow**, 5179 Old NC Hwy 49, said that in the 70's they moved into the country for the quiet life. Winslow said that when the sawmill was placed on the property, they began to hear all the noise that the sawmill created and experience all the dust that the business created. Winslow said she started to have breathing problems and has been diagnosed with acute bronchitis and severe asthma. Winslow said her doctor has told her that being exposed to this dust all

the years could have caused her illness. Winslow said the Bible says to love and honor thy neighbor and she didn't think that Tony honored the neighbors by moving a sawmill into the area. Winslow said Tony has property in the rear of this operation but yet he continues to expand next to his neighbors. Winslow said one time she did call the McDowells and asked that the business be closed at 9:30 one night. Winslow said that she spoke to his wife and Tony did cut the noise off in about 10 minutes. Winslow said every night she hears a truck at 2 am. Winslow said their property is worthless because of this business, and they can't sit out on their deck because of the noise and dust. Winslow said since Tony cut all the timber they only see buildings and stacks of lumber. Winslow said that Tony was not considerate of his neighbors when he placed the business here. Winslow said she would ask the Board to consider having Tony close the business and move it to the rear of his property. Winslow read a letter written by their tenant in their rental house and the severe dust problems that she experiences. Winslow entered the letter into record, describing her opposition to this business being allowed to remain. **Brown** asked Winslow if she had a boundary dispute. **Winslow** said she would let her husband speak to that.

**Claude Winslow**, 5179 Old NC Hwy 49, said that his rental house is only 100 ft. from the large dust bin. Winslow presented pictures that show no buffer from his house, the large fan that blows dust, the large dust bin, and other pictures of the property. Winslow said that his mother never drew a clean breath of air from the time the business was built until her death. Winslow said he would never live long enough to see the trees that were planted grow to be an appropriate buffer. Winslow discussed the number of people (employees of the pallet operation) that stare into his backyard each day. Winslow presented the Board with a picture where the dirt was moved to put a dry kiln operation on the property. Winslow said he realized that the County will not shut the business down but the pallet operation should be shut down immediately. Winslow said it was not built on this property until 2003 and he didn't know who approved this additional operation at that time. Winslow discussed the problems with dust, noise, and pollution problems. Winslow said Tony has not done anything about the dust and he wanted the problems solved.

**Kim Hoffman**, 626 Mountain Road, (daughter of Claude Winslow), provided a video of the property and the problems with dust and noise and the lack of appropriate buffers.

**Claude Winslow** said the only thing Tony can do to satisfy the neighbors would be to move the business. Winslow said this dust is like rain mist and can be breathed. Winslow said you cannot sit outside and drink a cup of coffee without a napkin over it.

**Patricia Crawford**, 5166 Old NC Hwy 49, said when the trees were clear the noise increased tremendously. Crawford said if the County doesn't control this type of development now, she is concerned of what development will come.

**There were 9 citizens present in opposition to the request.**

**Tony** said that the day Winslow complained about the fans, they were cut off that night and have not been on at night since.

**Rains** asked if the dust collection process could be moved to contain all the dust on Tony's property. **Tony** said not without a tremendous expense. **Rains** asked if the dust could be contained on the business property and **Tony** said he would check into this problem. **Tony** said he didn't know these complaints from his neighbors. **Tony** said that maybe he has made mistakes but he tries to do good and is probably one of the biggest givers in the community. **Tony** said the zoning was a County mistake and he felt the neighbors should come to him with these problems. **Tony** said he didn't know why his neighbors wouldn't come talk to him. **Brown** said that he was told by his neighbors that they really do like Tony and didn't want to complain, but his business has grown so large they can't take it anymore. **Tony** said he would work on the problems his neighbors have but this zoning mistake should be an open and shut case. **Johnson** asked about the dust problems and **Tony** said he would look into these problems and see if he could correct the problem. **Tony** said he moved the planer in his operation back away from his neighbors when he realized the noise bothered the neighbors. **Dorsett** asked about the truck noise all hours of the night and **Tony** said he didn't know how many trucks came in at night. **Tony** said he could control his trucks, but he only owns 10-20% of the trucks coming to the business. **Brown** asked Tony if the possible air and soil pollution was being monitored and **Tony** answered yes. **Tony** said that most of the run-off is controlled by ditches to run into a pond on the property. **Tony** said he has a safety consultant on retainer. **Tony** said he runs a good clean business. **Tony** said they are moving some of the operations to move the loading of trucks off the state road. **Craven** asked Tony who has property on Falling Oak Road and **Tony** said that he owns all the property fronting on Falling Oak Road and he couldn't remember any accident on this road.

**Craven** said the boundary problems are not an issue that he is going to touch. **Craven** said the video showed him that if he lived within 100 ft. of this operation he wouldn't like it. **Craven** said the noise, air, water, and traffic problems need to be addressed. **Craven** said if they cannot be corrected they need to move.

**Brown** said they started with a small family operation and have done well and grown to a large operation. **Brown** said the Board has to consider if they would

approve this request if it was not there before zoning. **Craven** said he wouldn't vote for it.

**McLeod** asked how they could require a buffer if they don't know where the property lines are.

**Rains** said we don't manage noise pollution, water pollution, air pollution, or right-of-ways. **Rains** said there are state agencies that regulate these issues.

**Dorsett** said the Board can turn it down, approve it, or recommend conditions that could be considered.

**Johnson** said there have been some complicated issues discussed during the public input phase of this meeting. Johnson said that this is a conditional use rezoning request which means that special conditions tailored to address the concerns expressed can be recommended by the Planning Board. Johnson said that the Planning Board may want to consider continuing this request until their January 4<sup>th</sup> meeting. **Alan Pugh** said he concurred with this recommendation, and said this was a complex issue, and rather than try to wrestle with conditions tonight, the Board may want to allow the applicant time to offer conditions. Pugh said that in order for a conditional use rezoning to be valid, the applicant must either propose or agree to the conditions that are attached as part of the rezoning. Pugh said the continuance of this request would be the most logical. **Brown** agreed, and **Dorsett** said that the Board can either send the request as is to the Commissioners, or the Board can continue the request until the Planning Board's next meeting. **Brown** said that the applicant should meet with Hal Johnson and try to work out conditions that would address some of the concerns mentioned during the public input at tonight's meeting. **Chris McLeod** said that he felt the neighbors had some reasonable grips; however, Tony McDowell had stated to the Board that he was unaware of these problems. McLeod said that Tony McDowell needs time to consider these issues and try to offer some conditions that would help the existing situation.

**Phil Ridge** agreed with McLeod, and stated that he also felt that Tony McDowell should consider moving anything that could be moved to the south on his property so that it would be less of a problem to his neighbors. **McLeod** said that he felt McDowell had a good business, and that the problems could be worked out.

**McLeod** made the motion to continue the request until the Board's January 4 meeting. The motion was seconded by **Lynden Craven**.

**Pugh** said that the opponents have presented several points and even a list of issues they feel need to be addressed. **Pugh** said that the Board is going to allow the applicant time to review some of these issues to see if he would like to modify

his request. **Pugh** advised Tony that he is under no obligation to modify his request. **Pugh** said that the Board cannot be placed in the position legally to negotiate conditions back and forth with the applicant. **Pugh** said the Board can only consider the application as presented to the Board.

**Tony** asked what would happen if he doesn't request the zoning to be changed. **Pugh** said that he would have to refer him to his own attorney. **Pugh** said if the County felt that the County Zoning Ordinance was being violated, legal action could be taken. **Pugh** stated further that if the adjoining property owners felt the County was not enforcing regulations as the County should, they could bring a "writ of mandamus" and the court could force the County to enforce the ordinances.

Dorsett called for a vote on the motion and the motion passed by a vote of 4 to 2. **Brown and Rains voted against the motion.**

- B. The County Planning Department, as required by County Ordinance, is requesting that the Board of County Commissioners rezone 1 acre (out of 14.45 acres) located at 1150 Pleasant Ridge Road, Columbia Township, from Highway Commercial/Conditional Use to Residential Agricultural. Tax ID# 8701147489. This proceeding is requested due to continued violation of the Conditional Use Permit and would rezone the property to its previous zoning classification. Roger D. & Christina B. Brown - Property Owners.

**Johnson** said that the County has been in a lengthy process of Code Enforcement violations with Roger Brown concerning a Conditional Use Rezoning approved by the County Commissioners in 2001. Johnson said all legal notices to Mr. Brown have been posted and that the County Zoning Ordinance requires that when provisions of a Conditional Use Permit have been violated, that the County begin proceedings to rezone the property back to its original classification. Johnson provided the Planning Board with a copy of the Legal Notice of Violation that has been served on Roger Brown by County Code Enforcement Officers. Johnson said the Planning Board recommendation would be forwarded to the County Commissioners who would make final decision at their January 3 meeting. Shortly after this meeting, the County will commence legal action through the courts.

**McLeod** made the motion, seconded by **Brown**, to recommend to the Commissioners that this request be approved. The motion passed unanimously.

6. The meeting adjourned at 10:15 p.m. There were 22 citizens present for this meeting.

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**NORTH CAROLINA  
RANDOLPH COUNTY**

*HAL JOHNSON*

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**Planning Director**

*JILL WOOD*

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**Date**

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**Clerk/Secretary**